

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

8 * * *

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 F. HARVEY WHITEMORE

13 Defendant.
14

3:12-CR-0058-LRH-WGC

ORDER

15 On March 21, 2012, this court heard oral argument on defendant F. Harvey Whittemore's
16 ("Whittemore") motion to suppress. Doc. #31.¹ The court has reviewed the documents and
17 pleadings on file in this matter, has considered the arguments of counsel at the hearing, and finds
18 that an evidentiary hearing is warranted.

19 In particular, the court is concerned with the factual basis for statements made by non-party
20 attorney James J. Pisanelli to the Eighth Judicial District Court in July, September, and
21 October 2012, that relate to his firm's resistance to turning over eighty-one (81) boxes of property
22 to counsel for Whittemore. It is not clear from the record before the court when, who and what was
23 said to attorney Pisanelli, or other representatives of his firm, or to what such comments may have
24 been directed or based. The court is also concerned with establishing the factual history of the
25

26
¹ Refers to the court's docket number.

1 sequence of events in March 2012, that lead to the second Grand Jury subpoena. The court clarifies
2 its order to limit the evidentiary hearing to the following witnesses: attorney James J. Pisanelli and,
3 if necessary, Special Agent April French or other FBI agent identified by attorney Pisanelli. The
4 court limits the evidentiary hearing to the time frame of March 2012 and the issues identified
5 above.

6 Further, it is the court's view that the burden is on the government to call the identified
7 witnesses and present testimony directed at the court's concerns.

8 IT IS THEREFORE ORDERED that an evidentiary hearing shall be set in accordance with
9 this order. The parties shall work together with the court clerk to find an available time for the
10 evidentiary hearing.

11 IT IS SO ORDERED.

12 DATED this 22nd day of March, 2013.



13
14 LARRY R. HICKS
15 UNITED STATES DISTRICT JUDGE
16
17
18
19
20
21
22
23
24
25
26